

MASSACHUSETTS PAROLE BOARD
120 PAR 450
SEXUALLY ABUSIVE BEHAVIOR PREVENTION
AND INTERVENTION POLICY

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MASSACHUSETTS PAROLE BOARD	DIVISION: ADMINISTRATION
TITLE: SEXUALLY ABUSIVE BEHAVIOR PREVENTION AND INTERVENTION POLICY	NUMBER: 120 PAR 450

Purpose: To provide the Parole Board guidelines to address the following prohibited and/or illegal sexually abusive behavior involving:

- Inmate perpetrator against inmate victim; or
- Parole Board employee, contractor or volunteer against inmate victim

References: Prison Rape Elimination Act (“PREA”) of 2003

Applicability: Staff/Parolees **Public Access:** Yes

Location: All Parole Board Policy and Procedure Manuals

Responsible Staff for Implementation and Monitoring of Policy:

- Parole Board Chairman
- Executive Director
- General Counsel
- Chief Parole Supervisor of Field Services
- Chief Parole Supervisor Transitional Services

Promulgation Date: March 31, 2016

Effective Date: June 7, 2016

Cancellation:

This document cancels all previous agency policy statements, bulletins, directives, orders, notices, rules and procedures regarding sexually abusive behavior prevention and intervention, which are inconsistent with this policy.

Severability Clause:

If any part of this policy is, for any reason, held to be in excess of the authority of the Chairman, such decision will not affect any other part of this policy.

450.01 General Policy

The Massachusetts Parole Board (“the Agency”) is committed to zero tolerance of any form of sexual abuse and sexual harassment in facilities it operates directly or with which it holds contracts for the confinement of parolees.

The purpose of this policy is to describe the Agency’s mandate of zero tolerance toward all forms of sexual abuse and sexual harassment; and to outline the Agency’s approach to preventing, detecting, and responding to sexual abuse and harassment.

450.02 Definitions

- (1) “Consent” refers to cooperation in act or attitude pursuant to an exercise of free will and with full understanding of the nature of the act. Inmates and parolees cannot consent to sexual contact with staff members, volunteers or contractors; and
- (2) “Contractor” means a person who provides services on a recurring basis pursuant to a contractual agreement with the agency; and
- (3) “Detainee” refers to any person detained in a lockup, regardless of adjudication status; and
- (4) “Inmate” means any person incarcerated or detained in a Parole Board secure room or cell; and
- (5) “Lockup” refers to a facility that contains holding cells, cell blocks or other secure enclosures that are:
 - (a) Under the control of law enforcement, court or custodial officer; and
 - (b) Primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency; and
- (6) “Parolee” means any person released from a correctional facility or other authority, who is subject to the supervision of the Massachusetts Parole Board; and
- (7) “Prison Rape Elimination Act (PREA)” was signed into law on September 4, 2003. The Prison Rape Elimination Act is legislation that establishes a standard of zero tolerance for rape and sexual assault or sexual harassment in any prison, jail, lockup or juvenile facility; and
- (8) “Sexual abuse” includes—
 - (a) Sexual abuse of an inmate by another inmate; and
 - (b) Sexual abuse of a parolee by another parolee; and
 - (c) Sexual abuse of an inmate by a staff member, contractor, or volunteer; and

(9) Sexual abuse of a parolee by another parolee, or of an inmate by another inmate, includes any of the following acts, if the victim does not consent, is coerced into such an act by overt or implied threats of violence, or is unable to consent or refuse:

- (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (b) Contact between the mouth and the penis, vulva, or anus;
- (c) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (d) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation; and

(10) Sexual abuse of a parolee or an inmate by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate:

- (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (b) Contact between the mouth and the penis, vulva, or anus;
- (c) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- (d) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (e) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (f) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a) through (e) of this section;
- (g) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate or parolee; and
- (h) Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate or parolee by staff for reasons unrelated to official duties, such as peering at an inmate or parolee who is using a toilet in his or her cell to perform bodily functions; requiring an inmate or parolee to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's or parolee's naked body or of an inmate or parolee performing bodily functions; and

(11) "Sexual harassment" includes—

- (a) Sexual harassment of an inmate by another inmate; and
- (b) Sexual harassment of a parolee by another parolee; and
- (c) Sexual harassment of an inmate or parolee by a staff member, contractor, or volunteer; and

(12) Sexual harassment of an inmate by another inmate, or, of a parolee by another parolee, includes:

- (a) Repeated and unwelcome sexual advances, requests for sexual favors; or
- (b) Verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an inmate directed toward another, or by a parolee toward another parolee; and

(13) Sexual harassment of a parolee or an inmate by a staff member, contractor, or volunteer includes:

- (a) Repeated verbal comments or gestures of a sexual nature to an inmate or a parolee by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures; and

(14) “Staff” means an agency employee; and

(5) “Volunteer” means an individual who donates time and effort on a recurring basis to enhance the activities and programs of the agency.

450.03 PREA Coordinator

The Agency has designated a PREA Coordinator with sufficient time and authority to develop, implement, and oversee its efforts to comply with the PREA standards. The PREA Coordinator shall be the Chief of Field Services or someone designated by that person, in writing.

450.04 Preventing and Detecting Sexual Abuse and Harassment

The Agency shall adopt and implement the following measures to prevent and detect sexual abuse and sexual harassment in its facility:

A. Staffing Plan/Video Monitoring

(1) All secure rooms and/or cell areas operated by the Agency are intended as temporary detention facilities only and are not to be used for overnight detention under any circumstances. The intended uses are as follows:

- (a) Regional Office Secure Rooms are temporary holding areas for parolees who have been arrested and who are awaiting transport to a correctional facility. Per the Operation of Field Services – Standard Operating Procedure (SOP), a detained parolee shall not be held in a secure room for a period longer than two

hours without approval of the Chief or Deputy Chief of Field Services. Staff shall visually check the holding room at ten (10) minute intervals. Parole Supervisors shall ensure that a Holding Room Log is maintained, detailing the name of each detainee, time of placement in the holding room, and time of removal from the secure room.

- (b) Central Office Cells are for use of Department of Correction (“DOC”) and Sheriffs’ Department Officers in holding inmates on the date of Lifer Hearings and Victim Access Hearings (VAH). Inmates shall only be held while awaiting the hearing and shall be removed reasonably promptly after the end of the hearing. The inmates shall remain in the custody of DOC or Sheriff’s Department Officers at all times while on Central Office premises. The movement of inmates during Lifer Hearings and Victim Access Hearing days shall be governed by the Agency’s Life Sentence Security Operations Plan. The Officer-In-Charge (OIC) shall maintain a log of inmate movements for each hearing and shall maintain video monitoring of the outer cell area.

(2) In the process of creating and revising a staffing plan to provide for adequate levels of staffing and video monitoring to protect inmates against sexual abuse, the Agency shall ensure that the following factors are taken into consideration:

- (a) Generally accepted detention and correctional practices;
- (b) Any judicial findings of inadequacy;
- (c) Any findings of inadequacy from Federal investigative agencies;
- (d) Any findings of inadequacy from internal or external oversight bodies;
- (e) All components of the facility’s physical plan;
- (f) The composition of the inmate population;
- (g) The number and placement of supervisory staff;
- (h) Programs or activities occurring at a particular location;
- (i) Any applicable State or local laws, regulations, or standards;
- (j) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
- (k) Any other relevant factors.

(3) The Agency shall make its best efforts to comply with the staffing and video monitoring plan and, in circumstances where it is not complied with, shall document and justify all deviations.

(4) At least once every year, and in collaboration with the PREA Coordinator, the Agency shall conduct an assessment to determine whether adjustments are needed to the staffing plan and the deployment of video monitoring systems and other technologies.

B. Cross Gender Viewing and Searches/Searches of Transgender Inmates

(1) Searches

(a) Parole Board staff are not trained nor authorized to conduct strip searches. Parole Board staff are trained in proper pat search techniques via defensive tactics training.

(b) The agency shall not permit cross-gender pat-down searches (a running of the hands over the clothed body of an inmate by an employee to determine whether the individual possesses contraband) of female inmates, absent exigent circumstances.

(c) No staff member shall conduct a search of a transgender or intersex parolee or inmate solely for the purpose of determining genital status. If the parolee or inmate's genital status is unknown, it may be determined during conversations with the parolee/inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

Note: "Transgender" means a person whose gender identity (internal sense of feeling male or female) is different from the person's assigned sex at birth. "Intersex" means a person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

C. Inmates with Disabilities or Who Have Limited English Proficiency

(1) Disabled Parolees or Inmates

(a) The Agency shall take appropriate steps to ensure that parolees/inmates with disabilities have an equal opportunity to benefit from all aspects of Agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include – when necessary to ensure effective communication with parolees/inmates who are deaf or hard of hearing – providing access to interpreters who can interpret effectively, accurately, and impartially.

Note: Parolees/Inmates with disabilities includes parolees/inmates who are deaf, hard of hearing, blind or have low vision, and those who have intellectual, psychiatric, or speech disabilities.

(b) In addition, the Agency shall ensure that written materials are provided in formats and through methods that ensure effective communication with parolees/inmates with disabilities.

(2) Parolees/Inmates Who Have Limited English Proficiency

The Agency shall take reasonable steps to ensure meaningful access to all aspects of its efforts to prevent, detect, and respond to sexual abuse and sexual harassment to parolees/inmates who have limited English proficiency, including by providing interpreters who can interpret effectively, accurately, and impartially.

(3) Use of Parolee/Inmate Interpreters

The Agency shall not rely on parolee/inmate interpreters, parolee/inmate readers, or other types of parolee/inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an parolee/inmate's safety, the performance of first-responder duties, or the investigation of an parolee/inmate's allegations.

D. Screening of Parolees/Inmates

Before placing any detainees together in a holding cell, staff shall consider whether, based on the information before them, a detainee may be at a high risk of being sexually abused and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee.

E. Hiring and Promotion Practices

(1) The Agency shall not hire or promote anyone who may have contact with parolees/inmates, or retain the services of any contractor who may have contact with inmates, who—

- (a) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; or
- (b) Has been convicted of, or civilly or administratively adjudicated for, engaging or attempting to engage in sexual activity in the community facilitated by force, threats of force, or coercion, or if the victim did not consent or was unable to consent.

(2) The Agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to retain the services of any contractor, who may have contact with parolees/inmates.

(3) Before hiring new employees who may have contact with inmates, the Agency shall:

- (a) Perform a criminal background records check; and
- (b) Make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse, or any resignation during a pending investigation of an allegation of sexual abuse.

(4) The Agency shall also perform a criminal background records check before retaining the services of any contractor who may have contact with inmates.

(5) The Agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates, or have in place a system for otherwise capturing such information for current employees.

(6) The Agency shall ask all applicants and employees who may have direct contact with inmates about previous misconduct described in this section, in:

- (a) Written applications and/or interviews for hiring or promotion; and
- (b) Interviews or written self-evaluations conducted as part of reviews of current employees.

(7) The Agency shall impose on its current employees a continuing affirmative duty to disclose any of the misconduct described in this section.

(8) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

(9) Unless prohibited by law, the Agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

F. Upgrades to Facilities and Technologies

(1) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Agency shall consider the effect of the design, acquisition, expansion, or modification on its ability to protect parolees/inmates from sexual abuse.

(2) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Agency shall consider how such technology may enhance its ability to protect parolees/inmates from sexual abuse.

450.05 Responding To Reports Of Sexual Abuse and Sexual Harassment

To respond to reported incidents of sexual abuse, we have adopted and implemented the following processes:

A. Procedures for Reporting Sexual Abuse and Sexual Harassment

(1) Ways for Parolees/Inmates to Report Incidents:

(a) The Agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse or sexual harassment, and staff neglect that may have contributed to such incidents. Parolees/Inmates may report concerns by:

- Reporting any issues to his/her assigned Parole Officer.
- Reporting any issues to the Parole Supervisor of the Regional Office where the incident took place.

- Reporting any issues to the Agency PREA Coordinator.

(2) The Agency shall also provide at least one way for parolees/inmates to report abuse, harassment, retaliation, and staff neglect to a public or private entity that is not part of the Agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Inmates may report concerns by:

(a) Reporting any incidents to the local Police Department and/or Massachusetts State Police unit which has jurisdiction of the address where the incident took place. Each Regional Office and the Central Office shall maintain a phone listing for the Police Department responsible for receiving PREA-related complaints.

(3) Staff shall accept reports made verbally, in writing, and anonymously. Staff shall promptly document any verbal reports.

Note: The agency may sanction a parolee for filing a grievance related to alleged sexual abuse only where the Agency demonstrates that the parolee filed the grievance in bad faith.

(2) Staff Reporting Rules

(a) Any staff member who has knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in an agency lockup; retaliation against parolees/inmates or staff who reported such an incident; and any staff neglect that may have contributed to such incident or retaliation, shall immediately report such incident or retaliation, in the manner specified by the Agency policy.

(b) Incident Reports entered in the SPIRIT database shall be maintained in a confidential manner and may only be accessed by staff involved in the investigative process.

(c) Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone except as specified by the Agency policy.

Note: Medical and mental health practitioners shall report knowledge, suspicion, or information regarding sexual abuse, sexual harassment, retaliation, or staff neglect pursuant to this section. This information shall be provided to parolees/inmates, in writing, at the initiation of services.

(d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.

(3) Rules for Third Parties to Report Abuse and to Assist Inmates with Grievances

- (a) The Agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate.
- (b) Staff shall accept reports made verbally, in writing, and anonymously from third parties and shall promptly document any verbal reports.
- (c) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of parolees/inmates.
- (d) If a third party files such a request on behalf of an parolee/inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the inmate declines to have the request processed on his or her behalf, [AGENCY] shall document the inmate's decision.

B. Coordinated Response

The Parole Board shall coordinate actions taken in response to an incident of sexual abuse among staff first responders, local law enforcement, and Agency administration.

C. Immediate Steps After Receiving Report of Incident

- (1) When a security staff first-responder learns that a parolee/inmate has been sexually abused, they shall take immediate action to protect the parolee/inmate. This includes:
 - (a) Separate the parolee/inmate from the alleged perpetrator;
 - (b) Preserve and protect any crime scene until appropriate steps can be taken to collect evidence; and
 - (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim—and ensure that the alleged abuser—not take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
 - (d) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall immediately notify the appropriate law enforcement authority regarding the need for medical attention.
- (2) When the first staff responder is not a security staff member, they shall request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

Note: The “first responder” is defined as the staff person (or persons) who first arrive at the scene of an incident.

D. Medical and Mental Health Services

- (1) Parolee/Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
- (2) Parolee/Inmate victims of sexual abuse while detained shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
- (3) Treatment services shall be provided to the victim—without financial cost to the victim—and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

E. Support Services for Victims of Sexual Abuse

- (1) Coordination of Support Services
 - (a) The Agency shall attempt to make available to the victim an advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocacy services, The Agency shall make available a qualified staff member from a community-based organization, or a qualified agency staff member to provide these services.

Note: A “qualified agency staff member” or a “qualified community-based staff member” means an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

- (b) When requested by the victim, the victim service coordinator, qualified agency staff member, or qualified community-based organization staff member shall accompany the victim throughout the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

(c) The facility shall inform parolees/inmates, prior to giving them access to outside advocates, of the extent to which such communications shall be monitored and the extent to which reports of abuse shall be forwarded to authorities in accordance with mandatory reporting laws.

F. Investigation of Incidents

(1) The Agency shall ensure that an administrative or criminal investigation is conducted for all allegations of sexual abuse and sexual harassment. Such an investigation must begin within seventy-two (72) hours of the reported incident.

(2) It is the Agency's policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The Agency shall publish this policy on its website, www.mass.gov/eopss/agencies/parole-board/ and make the policy available through other means.

(3) When the Agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.

(4) Where sexual abuse is alleged, the Agency shall utilize outside law enforcement investigators only. Agency staff will cooperate fully with all aspects of the law enforcement investigation. While an investigation is pending, Agency staff retain all constitutional, statutory, and contractual protections.

(5) Administrative investigations:

(a) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and

(b) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

(c) Shall be referred for prosecution if there are substantiated allegations of conduct that appear to be criminal.

(d) The Agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated in administrative investigations.

(6) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible; and

(7) The Agency shall retain all written reports required by this section for as long as the alleged abuser is incarcerated, under parole supervision or employed by the agency, plus five years.

(8) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

(9) When other agencies investigate sexual abuse, the Agency shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

(10) Evidence Protocol and Forensic Medical Exams:

(a) The Agency staff shall cooperate with all outside law enforcement investigators guidance with regard to preservation of evidence. All Forensic Medical Exams will be coordinated by outside law enforcement investigators.

(b) The Agency will assist outside law enforcement investigators in ensuring that all victims of sexual abuse are offered access to forensic medical examinations, without financial cost to the victim, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners.

(c) To the extent the Agency is not responsible for investigating allegations of sexual abuse, it shall request that the investigating agency follow the requirements of this section.

(11) Following an investigation into a parolee's/inmate's allegation that he or she suffered sexual abuse, the Agency shall inform the parolee/inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

(12) If the Agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the parolee/inmate.

(13) Sexual abuse incident reviews

(a) The Agency shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded.

(b) The review shall ordinarily occur within 30 days of the conclusion of the investigation.

(c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.

(d) The review team shall:

(d1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;

- (d2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
 - (d3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
 - (d4) Assess the adequacy of staffing levels in that area during different shifts;
 - (d5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - (d6) Prepare a report of its findings, including determinations made pursuant to this section, and any recommendations for improvement and submit the report to the facility head and the PREA Compliance manager or agency PREA Coordinator.
- (e) The Agency shall implement the review team's recommendations for improvement, or document its reasons for not doing so.

G. Protection from Retaliation

Retaliation by any employee against another employee, contractor, volunteer or inmate for reporting complaints of sexually abusive behavior, assisting in making such a report or for cooperating in the investigation of such a complaint, regardless of the merits or disposition of the complaint, is prohibited.

- (1) The Agency's policy is to protect all parolees, inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other parolees, inmates or staff.
- (2) The Agency shall employ multiple protection measures, such as case re-assignment for parolee victims or abusers, removal of alleged staff or parolee abusers from contact with victims, and emotional support referral services for parolees or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
- (3) For at least 90 days following a report of sexual abuse, the Agency shall monitor the conduct and treatment of parolees or staff who reported sexual abuse, and of parolees who were reported to have suffered sexual abuse, to see if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation.
The Agency shall continue such monitoring beyond 90 days if the initial monitoring indicates an ongoing need. Monitoring shall include:
 - (a) Periodic in-person conversations with parolees and/or staff;
 - (b) Review of sanctions/violations involving parolees;
 - (c) Review case assignment changes; and

(d) Review of negative performance reviews or reassignments of staff.

H. Sanctions for Individuals Found to have Participated in Sexual Abuse or Harassment

(1) Disciplinary Sanctions for Staff

(a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. All discipline shall be in accordance with the Agency's Discipline and Terminations Policy, 120 PAR 216.

(b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

(c) Disciplinary sanctions for violations of the Agency's policies relating to sexual abuse or sexual harassment shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

(d) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

(2) Corrective Action for Contractors and Volunteers

(a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with parolees and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

(b) The Agency shall take appropriate remedial measures, and shall consider whether to prohibit further contact with parolees, in the case of any other violation of Agency sexual abuse or sexual harassment policies by a contractor or volunteer.

(3) Sanctions for Parolees

(a) Parolees shall be subject to sanctions pursuant to the formal Parole Violation process following a finding that the parolee engaged in parolee-on-parolee sexual abuse or following a criminal finding of guilt for parolee-on-parolee sexual abuse.

(b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the parolee's history, and the sanctions imposed for comparable offenses by other parolees with similar histories.

(c) The Parole Violation process shall consider whether an parolee's mental disability or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

(d) If the Agency has referral options for treatment interventions designed to address and correct underlying reasons or motivations for the abuse, the Agency shall consider whether to require the offending parolee to participate in such interventions as a condition of any future parole release.

(e) The Agency may sanction a parolee for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

(f) For the purpose of sanctions, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident, even if an investigation does not establish evidence sufficient to substantiate the allegation.

I. Notifying Other Confinement Agencies

(1) Upon the Agency receiving an allegation that a parolee/inmate was sexually abused while confined at another facility, the head of the Agency shall notify the head of the facility or agency where the alleged abuse occurred.

(2) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

(4) The Agency shall document that it has provided such notification.

450.06 Training and Education

The Agency is committed to communicating to parolees, to its employees, and to contractors and volunteers, the following information through the training, education and orientation programs described in this section:

- ☐ The Agency's zero tolerance policy;
- ☐ The Agency's policies to prevent, detect, and respond to sexual abuse and sexual harassment; and
- ☐ Other rights and obligations under this policy.

A. Employee Training

(1) The Agency shall train all employees who may have contact with parolees or inmates on:

- (a) Its zero-tolerance policy for sexual abuse, sexual harassment and retaliation;
- (b) How to fulfill their responsibilities regarding prevention, detection, reporting, and response to sexual abuse and sexual harassment;
- (c) Parolees' and Inmates' right to be free from sexual abuse and sexual harassment;

- (d) The right of parolees, inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- (e) The dynamics of sexual abuse and sexual harassment in confinement;
- (f) The common reactions of sexual abuse and sexual harassment victims;
- (g) How to detect and respond to signs of threatened and actual sexual abuse;
- (h) How to communicate effectively and professionally with detainees;
- (i) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

(2) Security staff employees shall be trained in how to conduct cross-gender pat-down searches, and how to conduct searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

(3) All current employees shall receive this training, and the Agency shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures.

(4) Specialized Training: Investigators

The Agency does not employ internal investigators, but all employees will be trained to fully cooperate with outside investigators.

(5) The Agency shall document have received and understand the training. .

B. Parolee Orientation and Education

(1) During the intake process, parolees shall receive information explaining the Agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

(2) The Agency shall maintain documentation of parolees' receipt of information regarding the Agency's Zero Tolerance Policy .

(3) In addition to providing such education, the Agency shall ensure that key information is continuously and readily available or visible to inmates through posters or other written formats.

C. Volunteer and Contractor Training

(1) The Agency shall ensure that all volunteers and contractors who have contact with parolees have been trained on their responsibilities under the Agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

(2) The level and type of training provided to volunteers and contractors shall be based on the services they provide and the level of contact they have with parolees, but all volunteers and contractors who have contact with inmates shall be notified of the Agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents.

(3) The Agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

450.07 Data Collection and Review

A. Data Collection

(1) The Agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.

(2) The Agency shall aggregate the incident-based sexual abuse data at least annually.

(3) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Victimization conducted by the Department of Justice.

(4) The Agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

(5) The Agency shall also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its parolees.

(6) Upon request, the Agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

B. Data Review for Corrective Action

(1) The Agency shall review data collected and aggregated pursuant to Section 450.07 A. (Data Collection) above in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

(a) Identifying problem areas;

(b) Taking corrective action on an ongoing basis; and

(c) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

(2) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the Agency's progress in addressing sexual abuse.

(3) The Agency's report shall be approved by the Agency's head and made readily available to the public through its website or, if it does not have one, through other means.

(4) The Agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but shall indicate the nature of the material redacted.

C. Data Storage, Publication, and Destruction

(1) The Agency shall ensure that data collected pursuant to Section 450.07. A. are securely retained.

(2) The Agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.

(3) Before making aggregated sexual abuse data publicly available, the Agency shall remove all personal identifiers.

(4) The Agency shall maintain sexual abuse data collected pursuant to Section 450.07 A. for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.